

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PATRICE NEWSOME, INDIVIDUALLY
AND AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF LAKEYTRICK QUINN
Plaintiff,

v.

TEXAS SOUTHERN UNIVERSITY
Defendant.

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Civil Action No. _____

NOTICE OF REMOVAL

Defendant Texas Southern University ("TSU") files this Notice of Removal. In support hereof, Defendant respectfully shows the following:

The Grounds for Removal

This Court has original jurisdiction of this action under federal question jurisdiction pursuant to 28 U.S.C. §§ 1331, 1441(a) and 1446. The action may be removed to this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446 for the following reasons:

Federal Question Jurisdiction

1. On November 3, 2016, Plaintiff filed suit against Defendant Texas Southern University in the case styled Cause No. 2016-76257; *Patrice Newsome, Individually and as Personal Representative of the Estate of Lakeytrick Quinn v. Texas Southern University*; in the 189th Judicial District, Harris County, Texas. Plaintiff alleges claims of premises defect or negligent activity following a third-party

shooting for which she contends Defendant has waived its sovereign immunity under the Texas Tort Claims Act. *See* Pl's Orig. Pet., Exh. A.

2. In addition, although this case was not removable when originally filed, on December 14, 2017, Plaintiff filed her First Amended Original Petition which, for the first time, alleges federal causes of action under 42 U.S.C. § 1983 based on alleged violations of Plaintiff's rights under the U.S. Constitution. *See* Pl's First Amend. Orig. Pet., Exh. C. This Notice of Removal is timely filed within thirty days after Defendant was served with a copy of Plaintiff's First Amended Original Petition, as required by 28 U.S.C. § 1446(b)(3).

3. Pursuant to 28 U.S.C. § 1441(b), "[A]ny civil action of which the district courts have original jurisdiction, founded on a claim or right arising under the...law of the United States shall be removable[.]" In addition, this court has supplemental jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. § 1367(a), which provides that "in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within the original jurisdiction that they form part of the same controversy under Article III of the United States Constitution." Courts look to both statutory factors under § 1367(c) and common-law factors of judicial economy, convenience, fairness, and comity, when determining whether to exercise supplemental jurisdiction. *Cooper v. City of Dallas, Tex.*, 2013 WL 4675665 *2 (N.D. Tex. August 30, 2013). Here, Plaintiff's state law claim relates to the same cause of action and event at issue as in Plaintiff's federal claims; it does not raise novel or

complex issues of state law; it does not substantially predominate over Plaintiff's federal claims; nor are there any exceptional circumstances or other compelling reasons for declining jurisdiction in this case.

4. Venue is proper in this district court under 28 U.S.C. § 1441(a) because the state court where the action has been pending is located in this district and division. Plaintiff requested a trial by jury in her Original Petition filed with the state court.

Compliance with Removal Procedures

5. In accordance with 28 U.S.C. § 1446(a), copies of all of the process, pleadings, and orders served upon Defendant Texas Southern University in this action to date are attached to this notice:

- a. Plaintiff's Original Petition and Citation (Exh. A);
- b. Defendant's Original Answer, Plea to the Jurisdiction and Affirmative and Other Defenses (Exh. B);
- c. Plaintiff's First Amended Original Petition (Exh. C);
- d. Docket Control Order (Exh. D);

6. In accordance with Local Rule 81, Defendant further attaches copies of the following documents required for cases removed to the Southern District of Texas:

- a. Docket Sheet (Exh. E);
- b. An Index of Matters Being Filed (Exh. F);
- c. A List of All Counsel of Record, including addresses, telephone numbers and parties represented (Exh. G); and,
- d. Civil Cover Sheet, JS-44 (Exh. H).

Preservation of Defenses

By filing this Notice of Removal, Defendant does not waive any defense which may be available to it.

FOR THESE REASONS, Defendant Texas Southern University prays that this cause be removed to the United States District Court for the Southern District of Texas, Houston Division, pursuant to 28 U.S.C. §1441.

Dated: January 12, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was sent on this 12th day of January 2018 via Certified Mail, Return Receipt Requested and via facsimile to:

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